

1 BEFORE THE COMMISSION FOR COMMON-INTEREST
2 COMMUNITIES AND CONDOMINIUM HOTELS
3 STATE OF NEVADA

4 Sharath Chandra, Administrator, Real
5 Estate Division, Department of Business
& Industry, State of Nevada,

Case Nos. 2016-4195; 2016-173; 2015-3800
 2015-3802; 2015-3803

6 Petitioner,

7 vs.

8 Jodi Kelly-Mehr,

9 Respondent.

FILED

MAY 16 2017

NEVADA COMMISSION OF
COMMON INTEREST COMMUNITIEE
& CONDOMINIUM HOTELS

11 **COMPLAINT FOR DISCIPLINARY**
12 **ACTION AND NOTICE OF HEARING**

13 The Real Estate Division of the Department of Business and Industry, State of
14 Nevada (the "Division"), by and through its counsel, Adam Paul Laxalt, Attorney General
15 of the State of Nevada, and Michelle D. Briggs, Senior Deputy Attorney General, hereby
16 notifies Respondent JODI KELLY-MEHR (the "RESPONDENT" or "MEHR") of an
17 administrative hearing before the Commission for Common-Interest Communities and
18 Condominium Hotels, State of Nevada, which is to be held pursuant to Chapters 233B
19 and Chapters 116 and 116A of the Nevada Revised Statutes ("NRS") and Chapters 116
20 and 116A of the Nevada Administrative Code ("NAC"). The purpose of the hearing is to
21 consider the allegations stated below and to determine if an administrative penalty will
22 be imposed on MEHR pursuant to the provisions of NRS and NAC including, but not
23 limited to, NAC 116A.360.

24 **JURISDICTION AND NOTICE**

25 1. MEHR engages in the management of common-interest communities as
26 defined by NRS 116A.110 in the state of Nevada under certificate number
27 (CAM.0001214).

28 2. MEHR is subject to the provisions of Chapters 116 and 116A of both the

1 Nevada Revised Statutes ("NRS") and the Nevada Administrative Code ("NAC") and is
2 subject to the jurisdiction of the Division, and the Commission for Common-Interest
3 Communities and Condominium Hotels.

4 FACTUAL ALLEGATIONS

5 3. On September 22, 2015, this Commission accepted a settlement with Leslie
6 White whereby Ms. White voluntarily surrendered her community manager certificate.

7 4. The settlement involved multiple investigations of the Division some of
8 which had resulted in complaints before this Commission and some had not yet been
9 filed.

10 5. The settlement detailed investigations of the Division involving
11 approximately 21 associations which, among other things, alleged that Ms. White
12 provided forged contracts and checks to the Division; managed associations without board
13 members for several years; managed associations without a management contract for
14 several years; provided false information to the Division over the course of several years
15 regarding the associations; took multiple payments over the course of several years by
16 electronic transfer; and was the sole signor on multiple association checks.

17 6. The settlement required payment of an administrative fine and costs in the
18 amount of \$41,000.

19 7. Ms. White had been providing community management services under her
20 company NCF Corporation, doing business as, Associated Community Management.

21 8. After surrendering her certificate, Ms. White hired two community
22 managers to work for her under her new name, Path Community Management.

23 9. The Division requested contracts and other documents from the new
24 community managers to determine compliance with NRS 116.

25 10. Respondent MEHR and Yvonne Jones were hired by Ms. White in
26 September of 2015.

27 11. By letter dated October 9, 2015, the Division notified MEHR of the
28 settlement between the Division and Ms. White that was approved by the Commission.

1 12. Based on the issues the Division had with the associations managed by Ms.
2 White, the Division requested the following documents for each association:

- 3 1. The management contract;
- 4 2. Names, addresses and phone numbers for each board member;
- 5 3. Copies of meeting minutes/elections that evidence the election of each
6 board member; and
- 7 4. Copies of bank signature cards.

8 13. By email dated October 26, 2015, MEHR provided management contracts for
9 the associations she managed.

10 14. The management contracts permitted management fees to be taken by
11 electronic transfers.

12 15. Beginning in January 2016, the Division requested from MEHR bank
13 statements and financial statements for associations she managed.

14 16. By letter dated February 2, 2016, MEHR and Yvonne Jones complained
15 about the investigation to the ombudsman saying "we feel like we are being singled out
16 and attacked simply because of where we are employed."

17 17. MEHR and Ms. Jones state in the letter that they "are also aware that [they]
18 are the licensed community managers that are responsible for ensuring that the
19 communities and boards are in compliance with the law."

20 18. The Division continued requesting bank records and financial statements.

21 19. Upon review of the financial records provided by MEHR, the Division found
22 that payments to the management company were much higher than what was stated in
23 the income and expense statements and were in excess of the contracted fee.

24 20. Income and expense statements provided to board members did not
25 accurately reflect the association money paid to the management company.

26 21. By letter dated May 17, 2016, the Division requested a response from MEHR
27 regarding the allegation that amounts paid to the management company by Amber Wood
28 Homeowners Association were much higher than the amounts noted in the income and

1 expense statements.

2 22. Yvonne Jones terminated her employment with Ms. White on May 20, 2016.

3 23. By affidavit dated May 25, 2016, MEHR stated:

4 I deny the allegations opened upon me as Community Manager of Amber
5 Wood Homeowners Association regarding proper documentation of the
6 management amounts paid to ACM/PATH community management. The
figures on the balance sheets do reflect the general ledger reports.

7 24. Yvonne Jones reported to the Division in June 2016 that Ms. White
8 controlled all the financial records of the associations, prepared the board packets, and
9 used board members' signatures on checks without approval.

10 25. MEHR continued to work for Ms. White after Ms. Jones quit.

11 26. MEHR became responsible for all the associations previously managed by
12 Ms. Jones.

13 27. MEHR terminated her employment with Ms. White in August 2016.

14 28. From October 2015 through August 2016, the associations managed by
15 MEHR overpaid the management company approximately \$300,000, as follows:

16	1. Alterra Homeowners Association	\$7,892.01
17	2. Amber Wood Homeowners Association	\$12,400.00
18	3. Avignon Homeowners Association	\$21,500.00
19	4. Avila Court Association	\$9,841.02
20	5. Bella Lago Homeowners Association	\$3,400.00
21	6. Benton Homeowners Association	\$5,400.00
22	7. Bonita Vista Homeowners Association	\$17,000.00
23	8. Brighton Homeowners Association	\$5,621.44
24	9. Calabria Homeowners Association	\$19,000.00
25	10. Carmel Ridge Association	\$6,600.00
26	11. Centennial and Lamb Association	\$6,300.00
27	12. Chatham Hills Association	\$9,000.00
28	13. Cherry Lane Association	\$2,800.00

1	14.	Country Glen Association	\$14,100.00
2	15.	Crestwood Homeowners Association	\$2,700.00
3	16.	Cumberland Homeowners Association	\$14,800.00
4	17.	Fiore Homeowners Association	\$8,555.82
5	18.	Greenwood Homeowners' Association, Inc.	\$17,350.00
6	19.	Hillcrest Homeowners Association	\$6,980.00
7	20.	Manchester at Westlake Association	\$10,300.00
8	21.	Mesa Verde Homeowners Association	\$17,950.00
9	22.	Moreno Valley Association	\$32,300.00
10	23.	Murano Homeowners Association	\$10,000.00
11	24.	Paloma Valley Homeowners	\$14,740.24
12	25.	Pinecrest Homeowners Association II	\$20,947.23
13	26.	Whisper Rock Homeowners Association	\$5,100.00

VIOLATIONS OF LAW

15 29. MEHR violated NRS 116A.630(1)(a) more than 26 times by failing to act as a
16 fiduciary in her relationship with the associations she managed by allowing Ms. White to
17 control the financial records of the associations.

18 30. MEHR violated NRS 116A.630(1)(b) more than 26 times by failing to
19 exercise ordinary and reasonable care in the performance of her duties by allowing Ms.
20 White to control the financial records of the associations.

21 31. MEHR violated NRS 116A.630(6)(a) more than 214 times by failing to
22 ensure that the financial transactions of a client are current, accurate and properly
23 documented.

24 32. MEHR violated NRS 116A.630(6)(b) 26 times by failing to establish policies
25 and procedures that are designed to provide reasonable assurances in the reliability of
26 the financial reporting.

27 33. MEHR violated NRS 116A.630(15) 26 times by failing to maintain internal
28 accounting controls, including, without limitation, segregation of incompatible accounting

1 functions.

2 34. MEHR violated NAC 116A.355(1)(a)(1) (NAC 116A.355(4)(g)) more than 214
3 times by committing unprofessional conduct by failing to act in the best interests of the
4 associations by failing to disclose to the associations that Leslie White controlled the
5 financial records of the associations.

6 35. MEHR violated NAC 116A.355(1)(a)(2) (NAC 116A.355(3)(a)) more than 214
7 times by committing professional incompetence by demonstrating a significant lack of
8 ability, knowledge or fitness to perform a duty or obligation owed to a client.

9 36. MEHR violated NAC 116A.355(1)(a)(2) (NAC 116A.355(3)(b)) more than 214
10 times by committing professional incompetence by failing to exercise reasonable skill and
11 care with respect to a duty or obligation owed to a client.

12 DISCIPLINE AUTHORIZED

13 Pursuant to the provisions of NAC 116A.360 the Commission has discretion to
14 impose discipline as it deems appropriate, including, but not limited to one or more of the
15 following actions:

- 16 1. Revoke or suspend the certificate;
- 17 2. Refuse to renew or reinstate the certificate;
- 18 3. Place the community manager on probation;
- 19 4. Issue a reprimand or censure to the community manager;
- 20 5. Impose a fine of not more than \$5,000 for each violation of a statute or
21 regulation;
- 22 6. Require the community manager to pay restitution;
- 23 7. Require the community manager to pay the costs of the investigation and
24 hearing;
- 25 8. Require the community manager to obtain additional education relating to
26 the management of common-interest communities; and
- 27 9. Take such other disciplinary action as the Commission deems appropriate.
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1 The Commission may order one or any combination of the discipline described above.

2 **NOTICE OF HEARING**

3 **PLEASE TAKE NOTICE**, that a disciplinary hearing has been set to consider
4 this Administrative Complaint against the above-named RESPONDENT in accordance
5 with Chapters 233B and 116 and 116A of the Nevada Revised Statutes and Chapters 116
6 and 116A of the Nevada Administrative Code.

7 **THE HEARING WILL TAKE PLACE** at the Commission meeting scheduled for
8 June 27-29, 2017, beginning at approximately 9:00 a.m. each day, or until such time as
9 the Commission concludes its business. The Commission meeting will be held at the
10 Nevada State Business Center, 3300 W. Sahara Avenue, Nevada Room, Suite 400, Las
11 Vegas, Nevada 89102 with videoconferencing to Department of Business & Industry,
12 Director's Office, 1830 East College Parkway, Suite 100, Carson City, Nevada 89706.

13 **STACKED CALENDAR:** Your hearing is one of several hearings that may be
14 scheduled at the same time as part of a regular meeting of the Commission that is
15 expected to take place on June 27-29, 2017. Thus, your hearing may be continued until
16 later in the day or from day to day. It is your responsibility to be present when your case
17 is called. If you are not present when your hearing is called, a default may be entered
18 against you and the Commission may decide the case as if all allegations in the complaint
19 were true. If you need to negotiate a more specific time for your hearing in advance
20 because of coordination with out of state witnesses or the like, please call Claudia
21 Rosolen, Commission Coordinator, at (702) 486-4606.

22 **YOUR RIGHTS AT THE HEARING:** Except as mentioned below, the hearing is an
23 open meeting under Nevada's open meeting law, and may be attended by the public.
24 After the evidence and arguments, the commission may conduct a closed meeting to
25 discuss your alleged misconduct or professional competence. A verbatim record will be
26 made by a certified court reporter. You are entitled to a copy of the transcript of the open
27 and closed portions of the meeting, although you must pay for the transcription.

1 As a RESPONDENT, you are specifically informed that you have the right to
2 appear and be heard in your defense, either personally or through your counsel of choice.
3 At the hearing, the Division has the burden of proving the allegations in the complaint
4 and will call witnesses and present evidence against you. You have the right to respond
5 and to present relevant evidence and argument on all issues involved. You have the right
6 to call and examine witnesses, introduce exhibits, and cross-examine opposing witnesses
7 on any matter relevant to the issues involved.

8 You have the right to request that the Commission issue subpoenas to compel
9 witnesses to testify and/or evidence to be offered on your behalf. In making this request,
10 you may be required to demonstrate the relevance of the witness' testimony and/or
11 evidence. Other important rights and obligations, including your obligation to answer the
12 complaint, you have are listed in NRS Chapters 116 and 116A and NAC 116 and 116A,
13 including without limitation, NRS 116.770 through 116.780, and NAC 116.500 through
14 NAC 116.635 and NRS Chapter 233B.

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1 Note that under NAC 116.575, not less than five (5) working days before a hearing,
2 RESPONDENT must provide to the Division a copy of all reasonably available documents
3 that are reasonably anticipated to be used to support his or her position, and a list of
4 witnesses RESPONDENT intends to call at the time of the hearing. Failure to provide
5 any document or to list a witness may result in the document or witness being excluded
6 from a RESPONDENT'S defense. The purpose of the hearing is to determine if the
7 RESPONDENT has violated the provisions of Chapter 116A, and to determine what
8 administrative penalty is to be assessed against RESPONDENT.

9 DATED this ____ day of May, 2017.

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11 REAL ESTATE DIVISION, DEPARTMENT
12 OF BUSINESS & INDUSTRY, STATE OF
13 NEVADA

14 By: 
15 Sharath Chandra, Administrator
16 3300 W. Sahara Avenue, Ste 350
17 Las Vegas, NV 89102
18 (702) 486-4033

19 ADAM PAUL LAXALT,
20 Attorney General

21 By: 
22 Michelle D. Briggs, Esq.
23 Senior Deputy Attorney General
24 555 East Washington Avenue, Ste 3900
25 Las Vegas, Nevada 89101
26 (702) 486-3420
27 Attorneys for Nevada Real Estate Division
28